

Tennessee Valley Authority

§ 1309.7

funds, to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and this part.

[46 FR 30811, June 11, 1981, as amended at 68 FR 51357, Aug. 26, 2003]

§ 1309.3 What is the purpose of this part?

The purpose of this part is to effectuate the Act in all programs or activities of recipients which receive financial assistance from TVA, and to inform the public and the recipients of financial assistance from TVA of the Act's requirements and how it will be enforced.

§ 1309.4 What programs or activities are covered by the Act and this part?

(a) The Act and this part apply to any program or activity receiving financial assistance from TVA.

(b) The Act and this part do not apply to:

(1) An age distinction contained in that part of a Federal, State or local statute or ordinance adopted by an elected, general purpose legislative body which:

(i) Provides any benefits or assistance to persons based on age; or

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program.

§ 1309.5 What are the rules against age discrimination?

(a) *General rule.* No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving financial assistance from TVA.

(b) *Specific rules.* In any program or activity receiving financial assistance from TVA, a recipient may not directly or through contractual, licensing, or other arrangements, use age distinctions or take any other actions which have the effect, on the basis of age of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under a program or activity receiving financial assistance from TVA, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving financial assistance from TVA.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

(d) The rules stated in this section are limited by the exceptions contained in §§ 1309.6 and 1309.7.

§ 1309.6 Is the normal operation or statutory objective of any program or activity an exception to the rules against age discrimination?

A recipient is permitted to take an action, otherwise prohibited by § 1309.5, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) Age is used as a measure or approximation of one or more other characteristics; and

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) It is impractical to measure the other characteristic(s) directly on an individual basis.

§ 1309.7 Is the use of reasonable factors other than age an exception to the rules against age discrimination?

A recipient is permitted to take an action otherwise prohibited by § 1309.5 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial